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Senator Terry Gerratana
Representative Betsy Ritter
Members of the Public Health Committee
Legislative Office Building
Hartford, CT 06106

I would like to thank the Public Health Committee for the opportunity to testify in support of HB 5434 (raised), AN ACT CONCERNING THE PROFESSIONAL STANDARD OF CARE FOR EMERGENCY MEDICAL PROVIDERS.

I have been an Emergency Physician for over 30 years and I am currently the President of the Connecticut College of Emergency Physicians.

No one wants to be a patient in an Emergency Department but eventually almost all of us will be. The 31 Hospitals in Connecticut are precious community resources and their Emergency Departments maintain a health care safety net for all Connecticut citizens. They provide care for 4,000 patients a day or 1.5 million visits a year. The care provided to patients in an Emergency Department (ED) takes place under unusual circumstances. Patients are often unstable and have life threatening conditions. Many times they are too ill or compromised to provide any history. They have no previous relationship with the doctors caring for them in the ED, and their regular physicians might not be available for consultation if their emergency falls outside of regular hours.

Emergency Physicians and the Specialty Physicians who back them up are mandated by Federal Law to care for all emergency patients regardless of their insurance status or their ability to pay. In addition, we have a moral duty to provide this care. But Emergency Care takes place under higher risk circumstances, with less likelihood of remuneration. It is for this reason that we believe it is only fair, that the legal standard for malpractice should be higher for EMTALA mandated care.

While this might strictly seem like a matter of tort reform at first glance, the bill that is being proposed here is ultimately about access to care and cost of care. Every ED in this state reports difficulty obtaining on call coverage by Specialty Physicians. When needed specialists are not available, care is delayed and patients placed in further jeopardy. Lowering the malpractice burden associated with caring for emergency patients represents an opportunity to address this risk and offsets to some extent the lower likelihood of compensation.

The Congressional Budget Office estimates that 80-120 billion dollars a year are wasted in the United States on defensive medicine—ordering tests and performing procedures to defend against the possibility of a malpractice suit. Connecticut's share of this is probably 1 or 2 billion. Over time, comprehensive tort reform is likely to restore sanity and reduce this waste.

The community of medical providers in Connecticut would ultimately like to see comprehensive malpractice reform in our state. The bill that is being discussed here today, HB 5434, is a modest step in that direction. Similar legislation has already been enacted in other states such as Georgia and Arizona. Georgia's law was enacted in 2005 and ultimately upheld by their Supreme Court.

We recognize that the right of an individual to recover damages when injured by negligence is a fundamental cornerstone of our legal system. However, the tort system, that most benefits the individual, is one that can be harmful to the health and safety of the public, as a whole. The medical-legal environment in Connecticut is rated by the American College of Emergency Physicians as one of the poorest in the nation. Seven figure jury awards are becoming commonplace, malpractice premiums are twice the national average, and young physicians are choosing other states, such as Texas, with comprehensive medical tort reform, to practice after completing their training. A better balance must be achieved or the public health picture in Connecticut will continue to deteriorate.

Sincerely,

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